

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

SOUTHERN DIVISION

WILBUR-ELLIS COMPANY, LLC,

Plaintiff,

vs.

KEVIN ERIKSON and J.R. SIMPLOT
COMPANY,

Defendants.

4:23-CV-04058-LLP

ORDER

On August 28, 2023, this Court issued a Memorandum Opinion and Order finding Defendant Kevin Erikson (“Erikson”) in civil contempt for violating provisions of this Court’s June 13, 2023, Order for a Preliminary Injunction. (Doc. 72.) The Court held that civil contempt sanctions are warranted. Plaintiff, Wilbur-Ellis Company, LLC, Inc., (“Wilbur-Ellis”), was directed to submit documentation of its reasonable attorney’s fees incurred in seeking to enforce the Preliminary Injunction.

Wilbur-Ellis has submitted a Petition for Attorneys’ Fees, a Declaration of Jeremy Sosna setting forth Wilbur-Ellis’s support for its Petition, and copies of the lawyers’ billing records. (Doc. 73.) Wilbur-Ellis seeks \$43,746.50 in attorney fees. This was calculated by multiplying the number of hours worked by the billing rates of the lawyers involved. (Doc. 73-1.)


The Court is aware of the principles pertaining to attorney fee awards. *See Hensley v. Eckerhart*, 461 U.S. 424 (1983). The hours expended and the hourly rates of Wilbur-Ellis’s lawyers are well-documented. However, courts have considerable discretion to fashion an appropriate remedy for contempt. *See Hartman v. Lyng*, 884 F.2d 1103, 1106 (8th Cir. 1989). After careful consideration of all relevant factors in this case, including the nature of Erikson’s violations of the Preliminary Injunction and the extent of the harm suffered by Wilbur-Ellis, the Court finds that requiring Erikson to pay \$10,000 of Wilbur-Ellis’s attorney fees is sufficient to sanction Erikson for his contempt and to ensure his compliance with the Preliminary Injunction. Accordingly,

IT IS ORDERED:

1. That Plaintiff's Petition for Attorneys' Fees is granted as to a portion of the fees requested. (Doc. 73).
2. That, on or before Monday, October 2, 2023, Kevin Erikson shall pay \$10,000 to Wilbur-Ellis Company LLC as a sanction for being held in contempt of the Order granting a preliminary injunction issued by this Court on June 13, 2023.

Dated this 14th day of September, 2023.

BY THE COURT:


Lawrence L. Piersol

United States District Judge

ATTEST:

MATTHEW W. THELEN, CLERK


Matthew W. Thelen